

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MAX BIRMINGHAM,

Plaintiffs,

Hon. Janet T. Neff

v.

Case No. 1:20-cv-329

DANA NESSEL,

Defendant.

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ORDER

This matter is before the Court on Plaintiff's Motion for Leave to File Second Amended Complaint. (ECF No. 22). Plaintiff initiated this action challenging the constitutionality of Michigan's so-called seduction statute. *See Mich. Comp. Laws § 750.532*. After initiating this action, Plaintiff amended his complaint. (ECF No. 11). Plaintiff now moves to amend his complaint yet again. For the reasons articulated herein, Plaintiff's motion will be denied.

Given the timing of Plaintiff's motion, such is governed by Federal Rule of Civil Procedure 15(b), which requires Plaintiff to obtain leave of court. That leave shall be freely given when justice so requires. The factors relevant when considering a motion to amend include: (1) undue delay in filing, (2) lack of notice to the opposing party, (3) bad faith by the moving party, (4) repeated failure to cure deficiencies by previous amendments, (5) undue prejudice to the opposing party, and (6) futility of amendment.

See Wade v. Knoxville Utilities Board, 259 F.3d 452, 458 (6th Cir. 2001).

As detailed in the Report and Recommendation entered contemporaneously with this Order, Plaintiff lacks standing to assert the present action. Plaintiff's proposed second amended complaint fails to correct the shortcomings identified in the Report and Recommendation. Thus, to permit Plaintiff to again amend his complaint would be futile and prejudicial to Defendant. Accordingly, Plaintiff's motion (ECF No. 22) is **DENIED**.

IT IS SO ORDERED.

Date: September 16, 2020

/s/ Phillip J. Green
PHILLIP J. GREEN
United States Magistrate Judge